

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JANELL WINFIELD, TRACEY STEWART, and
SHAUNA NOEL,

Plaintiffs,

-against-

CITY OF NEW YORK,

15 CV 5236 (LTS)(DCF)

Defendant.

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**DECLARATION OF COMMISSIONER VICKI BEEN IN SUPPORT OF
DEFENDANT'S MOTION TO DISMISS**

VICKI BEEN, declares pursuant to 28 U.S.C. §1746, under penalty of perjury, as follows:

1. I am the Commissioner of the City of New York Department of Housing Preservation and Development (“HPD”), a position that I have held since February 2014. As Commissioner of HPD, I am responsible for leading the nation’s largest municipal housing agency. This declaration is based upon my personal knowledge, conversations with employees of the City of New York, and my review of records maintained by the City of New York.

2. I submit this declaration in support of defendant’s motion to dismiss the claims asserted in the plaintiffs’ First Amended Complaint, and to provide an overview of HPD-sponsored affordable housing programs, tax incentive programs administered by HPD, and the New York State Real Property Tax Law (“RPTL”) § 421-a Tax Exemption Program. I also submit this declaration to provide facts regarding the affordable housing lotteries at the developments located at 160 Madison Avenue, New York, New York; 200 East 39th Street, New York, New York; and 40 Riverside Boulevard, New York, New York (the “subject developments”), and plaintiffs’ application status at said developments.

affordable housing development is located priority for 50% of the available affordable units (the “City Community Preference Policy”). The City Community Preference Policy is intended to ensure that local residents, many of whom have deep roots in the community and have persevered through years of unfavorable living conditions, are able to remain in their neighborhoods as those neighborhoods are revitalized. As City investment enables a neighborhood to stabilize and become a more desirable location, housing costs may increase to the point where long-term residents are displaced. This is a harsh and inequitable outcome for people who have endured years of unfavorable conditions, and who deserve a chance to participate in the renaissance of their neighborhoods. The City Community Preference Policy ensures that new affordable units will be offered to these residents. In addition, neighborhoods throughout the City and their elected representatives often resist approving land use actions required to allow greater density or site affordable housing because of concern about the other types of burdens that development may impose. They have legitimate concerns about potential negative effects of development both during construction (such as noise and danger) and afterward (as additional residents strain existing infrastructure, potentially leading to things like traffic congestion and school crowding). The City Community Preference Policy ensures that neighborhoods see that new growth and investments in affordable housing provide some benefits to local residents to offset those burdens. This makes it possible for the City to overcome that resistance and achieve its ambitious affordable housing goals despite neighborhoods’ understandable concerns about the difficulties that new construction and growth may pose.

9. If after thorough outreach, the developer is unable to reach the required percentage, it may seek a waiver from HPD with respect to the remaining units. Once the community preference goal is reached or waived, the remaining units are offered to all other